MEMORANDUM

TO: Board of Directors, Massachusetts School Building Authority
FROM: James A. MacDonald, First Deputy Treasurer, and Chief Executive Officer
John K. McCarthy, Executive Director and Deputy Chief Executive Officer
DATE: October 19, 2022
RE: Recommendation to Pause the Accelerated Repair Program and not open the Program for 2023

Based on an ongoing review of the Massachusetts School Building Authority's ("MSBA's") funding policies and the bid results experienced by Capital Pipeline projects in 2022, MSBA staff recommend that the MSBA temporarily pause the Accelerated Repair Program ("ARP") and not accept new Statements of Interest ("SOIs") for the ARP in 2023. This recommendation does not apply to the MSBA's Core Program, and the 2023 SOI opening for the Core Program is planned for January 2023. Further, this recommendation to temporarily pause the ARP does not apply to ARP projects that have already been invited into the MSBA's grant program, including ARP invitations that are approved by the Board of Directors on October 26, 2022.

Background

The MSBA's enabling statute places a limit upon the estimated amount of grants, the Annual Cap, that can be approved by the MSBA during a fiscal year. That limit is tied to the rate of growth, by percentage, of dedicated sales tax revenues. A limit of $500 million was set in 2008 and, for each fiscal year thereafter, that limit is revised by an amount that is proportional to the actual rate of growth in the dedicated sales tax up to a maximum increase of 4.5 per cent. For fiscal year 2020, the Student Opportunity Act increased the limit on the estimated amount of grants approved by the MSBA to $800 million, resulting in an increase of approximately $175 million in the statutory limit for fiscal year 2020.

To meet the needs of multiple districts most effectively across the Commonwealth, ensure a sustainable program, and in consideration of the Annual Cap, the MSBA has, throughout the course of its grant program, set a limit on the reimbursable construction cost per square foot for projects in the MSBA's capital pipeline. The MSBA first set a reimbursable limit of $275 per square foot ("/sf") for eligible construction costs early in 2009 which remained in effect until June 30, 2014. Since 2009, staff have reviewed construction costs and the growth in the dedicated sales tax and increased the MSBA reimbursable construction limit six times resulting in the current reimbursable construction limit of $360/sf plus eligible demolition and abatement which became effective on June 1, 2021. Increases to the construction funding limits, such as the reimbursable construction cost per sf, assist districts in our pipeline. However, any funding limit increases, like these, that parallel the increase to the Annual Cap, offset the potential to increase the number of invitations to the grant program.

To reach additional districts, the MSBA began providing competitive grants for school repairs in 2010 when a temporary Green Repair Program was made possible through Qualified School Construction Bonds, which were available as part of the American Recovery and Reinvestment Act. Given the favorable reception from districts, the MSBA added an Accelerated Repair Program ("ARP") to its Capital Pipeline in 2012, initially establishing a $50 million ARP budget

as part of the Annual Cap that also funds the Core Program projects. In addition to the 189 projects and approximately $222 million in grants from the Green Repair Program, since 2012, the ARP has supported 370 projects in 134 districts with grants to date of approximately $565 million. Like the Core program, the ARP receives more applications than can be invited into the capital pipeline, with the current ARP budget of $75 million. With the proposed ARP invitations at today's Board of Directors meeting for 2022 Statements of Interest, the capital pipeline will have 172 approved or proposed ARP projects, representing over half of the MSBA's Capital Pipeline program.

Discussion

As noted above, there have been increases to the MSBA's funding limits, such as the reimbursable construction cost per sf, informed by the increases in the dedicated sales tax within the limits of the 4.5% overall increase to the Annual Cap. Increases to MSBA's funding limits in excess of the 4.5% limit to the Annual Cap would reduce the number of invitations to the Capital Pipeline for both Core Program and ARP.

Since 2014, the escalation in construction prices has exceeded the typical 3% to 4% escalation and, in recent years, has exceeded 4.5%. This has created a wider gap in the MSBA's grant as a percentage of each Total Project Budget especially for the more expensive proposed projects that have been submitted.

Over the last decade, the MSBA has seen districts use value engineering to maintain their Core Program projects on budget and note that, except for 2016 and 2018, there have been several projects each year which have exceeded the estimated construction cost established as part of the Project Funding Agreement.

Core Program projects have been over pre-bid estimates by varying amounts and for different reasons. The following table provides the average percentage of bid results compared to pre-bid estimates as well as the minimum and maximum percentage in each year.

	Total Projects	Projects Pending Bid Results	Bid Results Range Avg.	Bid Results Range Min.	Bid Results Range Max.	Projects Under Pre-Bid Estimate	Projects Over Pre-Bid Estimate
2012	26	0	-1.75%	-15.52%	18.21%	20	6
2013	30	0	-7.27%	-34.41%	17.39%	23	7
2014	15	0	-4.66%	-20.12%	2.31%	11	4
2015	13	0	-1.69%	-15.14%	2.24%	10	3
2016	10	0	-4.55%	-14.89%	0.00%	10	0
2017	11	0	-6.03%	-17.91%	1.76%	8	3
2018	8	0	-4.36%	-16.31%	0.00%	8	0
2019	22	0	-2.64%	-15.20%	6.92%	19	3
2020	13	0	-6.01%	-20.86%	1.37%	10	3
2021	12	0	-3.49%	-15.02%	12.82%	9	3
2022	16	11	8.57%	1.56%	14.75%	0	5

However, unanticipated market volatility and supply chain issues have significantly affected the 2022 bid results. Despite the use of value engineering, five of the 16 projects have reported bid results in excess of Project Funding Agreement estimates. Per the terms of the MSBA's Project Funding Agreement, in the event that the final contract exceeds the estimated construction budget, the MSBA shall not adjust its grant and the increased costs are the sole responsibility of the district.

10 of the 16 projects have or are preparing to seek additional funding through the use of additional appropriation or potential American Rescue Plan Act funding. Five projects have received approval for additional project funding, and one project funding vote failed at Town meeting. ARP projects have a similar history of bid results with projects now estimating unit prices in excess of MSBA funding limits, such as roofing estimated in excess of $50/sf with the MSBA funding limit at $35/sf. In addition, staff shortages within districts and consultant staffs have led to delays in processing the current projects within the ARP timelines and the higher costs have resulted in some districts withdrawing their SOIs. In addition, supply chain issues have affected construction schedules intended to be timed for completion during the summer when the building is unoccupied.

Recommendation

Staff have been reviewing potential changes to the funding policies for Core Program districts, including a review of the reimbursable construction cost per square foot amount. The potential changes could apply to districts that have not yet received Project Scope and Budget approval as of the December 21, 2022 Board of Directors meeting. The recommendation that is presently for consideration is for the MSBA to temporarily pause the ARP and not accept new SOIs for the ARP in 2023. This would provide additional space in the Annual Cap, which could be used to offset a portion of a larger increase in funding limits while minimizing the reduction in invitations to the MSBA's grant program.